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JAMES H. JOHNSTON  
EXECUTIVE VICE PRESIDENT

RECORDATION NO. 9235 Filed & Recorded

FEB 2 1978 - 3 55 PM

INTERSTATE COMMERCE COMMISSION  
RECORDATION NO. 9235 Filed & Recorded

FEB 2 1978 - 3 55 PM

INTERSTATE COMMERCE COMMISSION

RECEIVED  
FEB 1 3 50 PM '78  
CERTIFICATION UNIT

FEB 2 1978 - 3 55 PM

INTERSTATE COMMERCE COMMISSION  
January 4, 1978

RECORDATION NO. 9235 Filed & Recorded

FEB 2 1978 - 3 55 PM

INTERSTATE COMMERCE COMMISSION

Secretary of Interstate Commerce Commission  
Washington, D.C. 20423

Dear Sir:

Enclosed for filing are a Bill of Sale and two certified copies and three originally executed and acknowledged Security Agreements and Collateral Assignments of Management Agreement. The details of each document are as follows:

1. The parties to the Security Agreement and the Collateral Assigned are: Mark T. Ritter and Michael L. Cook, P. O. Box 1148, Austin, Texas 78767; and University State Bank, P. O. Box 1788, Austin, Texas 78767.
2. The parties to the Bill of Sale and Management Agreement (exhibit to the Collateral Assignment) are Mark T. Ritter and Michael L. Cook, P. O. Box 1148, Austin, Texas 78767, and Richmond Leasing Company, 777 South Post Oak Road, Houston, Texas 77056.
3. The equipment in which a security interest is granted to University State Bank in the Security Agreement is described as follows:

Five (5) 23,500 gallon nominal capacity tank cars, DOT 111A100W3, exterior coiled and insulated; 100-ton roller bearing trucks bearing the following numbers: RTMX 12226, RTMX 12227, RTMX 12228, RTMX 12229, and RTMX 12230.

After recording, the originals should be mailed to James H. Johnston, Executive Vice President, University State Bank, P. O. Box 1788, Austin, Texas 78767.

8-032A108

FEB 1 1978

Date .....

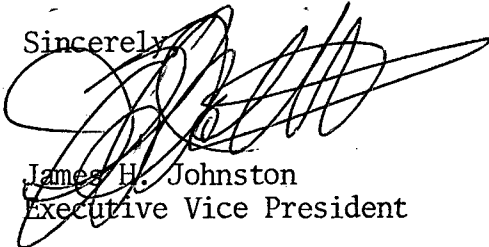
Fee \$ 150

ICC Washington, D. C.

Secretary of Interstate Commerce Commission  
January 4, 1978  
Page Two  
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Also enclosed is our check for the \$150.00 filing fee.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'JHJ', is written over the word 'Sincerely' and the name 'James H. Johnston'.

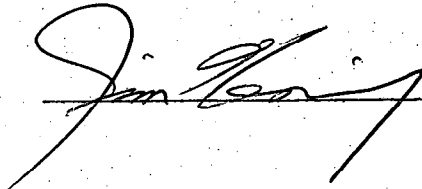
James H. Johnston  
Executive Vice President

JHJ:cc  
encl


RECORDATION NO. 9235-13 Filed & Recorded  
FEB 2 1978 - 3 15 PM  
INTERSTATE COMMERCE COMMISSION


CERTIFICATION OF MANAGEMENT AGREEMENT

The undersigned, a duly appointed officer of Richmond Leasing Company, after being duly sworn, does hereby state that the attached Management Agreement is a true and correct copy of the original of same executed by Richmond Leasing Company and Mark T. Ritter and Michael L. Cook.

  
\_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME on the 30th day  
of December, 19 77.

  
\_\_\_\_\_  
Notary Public in and for  
Harris County, Texas.



**LEGEND — RESTRICTION ON TRANSFER**

The securities represented by this Management Agreement and the railroad tank cars to be managed pursuant to the provisions hereof have not been registered under the Securities Act of 1933, as amended (the "Act"). No transfer of an interest hereunder (except for the grant of a security interest) shall be permitted in the absence of (i) an opinion of counsel for, or counsel satisfactory to, the issuer of the securities that such transfer will not require compliance with the registration requirements of the Act and of any applicable state laws or (ii) an effective Registration Statement under the Act and any applicable state laws covering the securities proposed to be transferred.

**MANAGEMENT AGREEMENT**

THIS MANAGEMENT AGREEMENT ("Agreement"), by and between Richmond Leasing Company, a Delaware corporation ("RLC"), having its principal place of business in Houston, Texas, and Ritter & Cook, a general partnership existing under the laws of Texas..... ("Owner"), a resident of ... Travis ..... County, Texas.....:

**WITNESSETH:**

WHEREAS, Owner has ordered ... Five (5) .... railroad tank cars pursuant to Richmond Tank Car Company purchase order dated .. June 22, ... 77 (the "Railway Equipment") and is desirous of entering into the following Agreement with RLC, whereby RLC will manage the Railway Equipment pursuant to the terms and conditions hereof; and

WHEREAS, RLC is desirous of undertaking the management of the Railway Equipment pursuant to the terms and conditions hereof;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and conditions set forth herein, the parties hereto agree as follows:

**ARTICLE I****Appointment**

1. Owner hereby appoints RLC to manage and otherwise supervise the operation of the Railway Equipment in the name of the Owner, or in the name of RLC, but for the account and on behalf of the Owner pursuant and subject to the terms and conditions set forth in this Agreement.

2. RLC hereby accepts the appointment set forth in Paragraph 1 of this Article I and agrees to perform the duties and obligations set forth herein. Owner acknowledges and agrees that, whereas RLC has accepted the responsibility of managing the Railway Equipment, except as specifically set forth herein to the contrary or as provided by law, RLC shall have the sole function and operative judgment, to be exercised in a reasonable manner, for the leasing, operation and management of the Railway Equipment and for establishing and implementing policies and standards of leasing, operation, service, maintenance, repair, reporting and other such policies and standards affecting the Railway Equipment or the operation, maintenance or repair thereof. RLC shall be entitled to rely upon written or oral instructions received from Owner as to any and all acts to be performed by RLC.

**ARTICLE II****Owner's Covenants and Responsibilities**

1. Effective on the delivery of the Railway Equipment by Richmond Tank Car Company to Owner, Owner does hereby deliver and release to RLC the Railway Equipment for the management thereof by RLC, and RLC acknowledges delivery and receipt thereof.

2. Except as provided below, Owner shall be responsible for the payment of all expenses incurred in connection with the Railway Equipment, including ad valorem and other taxes, freight, storage, design changes and other modifications required by governmental regulations or technological changes, deductibles under insurance policies, and other expenses, levies or charges, including the Management Fee (as defined in Article V hereof), incurred in connection with the Railway Equipment and the operation and leasing thereof (all of which shall hereinafter be sometimes collectively referred to as the "Expenses"). The Expenses shall not include, however, minor and major repair and maintenance work (including, without limitation, running repairs, cleaning, painting and periodic inspection costs) and insurance premiums as provided herein which shall be paid by RLC.

3. Owner agrees to pay a portion of the aggregate ad valorem, gross receipts, property, or similar taxes levied against all tank cars (including the Railway Equipment) managed or owned by RLC (the "RLC Fleet") in an amount equal to the percentage which the Lease Fees (as defined in Paragraph 1 of Article III) earned by the Railway Equipment are of the gross rental and service charges earned by all tank cars in the RLC Fleet.

4. If the Lease Fees (as defined in Paragraph 1 of Article III) earned by the Railway Equipment are less than the Expenses incurred or reasonably foreseeable in connection with the operation and management of the Railway Equipment hereunder, RLC will so advise the Owner in the Quarterly Report provided for under Article III, Paragraph 8 hereof, including the amount of such deficiency and, if requested by RLC, Owner will remit to RLC within ten days of receipt of the Quarterly Report the amount of such deficiency.

5. Owner agrees to cooperate fully with RLC and to provide all assistance reasonably requested by RLC to carry out its obligations hereunder. This shall include, subject to the provisions of Article VI hereof, full cooperation and assistance in any lawsuit or other similar matter or proceeding before any court or agency.

### ARTICLE III

#### RLC's Covenants and Responsibilities

In consideration of the Management Fee provided for hereunder, RLC agrees to utilize reasonable time and efforts to:

1. Collect the rental and service charges earned by the Railway Equipment (the "Lease Fees"). Such duties shall not, however, be deemed to include the filing of a suit to collect such Lease Fees, although RLC may elect to do so at its option but at the expense of Owner, subject to the provisions of Article VI hereof.

2. Use its best efforts to obtain leases for the Railway Equipment for terms not to exceed 71 months and maintain the Railway Equipment under lease throughout the term of this Agreement. RLC agrees not to enter into any lease agreement with respect to the Railway Equipment with a term in excess of one year without the Owner's prior written approval.

3. Comply with the terms and conditions of any lease agreements to which the Railway Equipment is subject during the term hereof. It is understood, however, that before RLC shall be obligated to comply with any lease not negotiated by RLC or any amended terms and conditions of any such lease, such lease and/or amendments must be approved, in writing, by RLC.

4. Make all required registration and other filings with the Interstate Commerce Commission, the Association of American Railroads, the Department of Transportation and any other governmental or industry authority.

5. File applicable ad valorem and other tax returns and pay, from the Lease Fees or from funds advanced by Owner, all such taxes due, in accordance with the provisions of Article II, Paragraph 3. RLC may, however, retain during each calendar year of the term of this Agreement, an amount equal

to three percent of the Lease Fees received during that calendar year to cover such taxes, but will, within 90 days following the end of each calendar year, remit to Owner any amounts not required for such taxes.

6. Maintain adequate books and records sufficient to account properly for the Lease Fees, Expenses and other such items applicable to the Railway Equipment.

7. Contract for or otherwise obtain all repair and/or maintenance work on the Railway Equipment considered necessary by RLC, such repair and/or maintenance work to be paid for by RLC, subject to the provisions of Article II, Paragraph 2.

8. Provide periodic reports to Owner on a quarterly basis (the "Quarterly Reports") which shall set forth the Lease Fees derived from the use of the Railway Equipment, as well as Expenses incurred or that are reasonably foreseeable to be incurred in connection with the Railway Equipment. The Quarterly Reports shall be for the quarters ending March 31, June 30, September 30 and December 31, and will be delivered to Owner as promptly as is reasonably possible. Should the Lease Fees exceed the Expenses incurred in connection with the Railway Equipment, payment of the excess (except for any amount retained under Paragraph 5 and this Paragraph 8 of Article III) shall accompany the Quarterly Report. Should Expenses (incurred or reasonably foreseeable) exceed the Lease Fees for the period in question, the Quarterly Report will set forth the amount to be remitted by Owner to RLC, if requested. It is understood that RLC shall be under no obligation to advance funds for payment of the Expenses, regardless of the results of the nonpayment thereof. It is further understood that RLC shall have the authority to retain portions of Lease Fees that exceed actual Expenses incurred to cover future Expenses that can be reasonably foreseen to exceed Lease Fees for the applicable future period or periods. Such retention of Lease Fees shall be accomplished on a reasonable basis and in such a manner as to minimize the effect that such retention shall have on cash distributions, if any, made to Owner. No assessment for cash deficiencies shall be made to Owner, however, to the extent of unremitted mileage credits held by RLC.

9. Maintain the following insurance coverage on the Railway Equipment: A policy of general liability insurance with limits of coverage not less than the amounts and against the risks insured against by RLC from time to time on railroad equipment owned by it; and a policy of property insurance with limits of coverage of not less than \$50,000 per car, \$1,500,000 each occurrence, with a \$50,000 deductible (to be paid by Owner) each occurrence, naming Owner as an additional insured. Any additional insurance desired by Owner shall be obtained by Owner at Owner's expense. If at any time the general liability insurance maintained on the Railway Equipment shall have limits of less than \$10,000,000, for whatever reason, RLC shall, not less than thirty (30) days after it receives effective notice of the decrease in such insurance coverage, give written notice to Owner of the same. RLC will provide the Owner as promptly as practicable after receipt by RLC a certificate setting forth the then existing insurance coverage on the Railway Equipment.

10. Reasonably pursue any and all warranties or other claims against manufacturers, users, lessees, railroads and other parties on behalf of Owner. Such duties shall not, however, be deemed to include the filing of suit, although RLC may elect to do so at its option, but at the expense of Owner, subject to the provisions of Article VI.

#### ARTICLE IV

##### Term and Termination

1. Subject to the provisions set forth herein, this Agreement shall be effective commencing with the first date on which a railroad tank car included in the Railway Equipment is delivered to Owner, as set forth in the invoice for such railroad tank car, and shall automatically terminate ten years from such date.

2. Except as otherwise provided in this Agreement, the Owner may terminate this Agreement by giving RLC written notice of termination not less than three months prior to the termination date designated in such notice; provided, however, if Owner shall owe RLC any amounts under this Agreement, the Owner may not terminate this Agreement as to any of the Railway Equipment until all such amounts have been paid. RLC shall, at its option, be entitled to continue to lease and otherwise operate and manage the Railroad Equipment and retain any and all Lease Fees received therefrom until all amounts outstanding and/or subsequently incurred in connection with such continued leasing of the Railroad Equipment have been paid.

3. Should either party default under its obligations set forth herein, the other party may advise the defaulting party of such default, and should such default not be corrected within 30 days of such notification, the aggrieved party may, at its option, immediately terminate this Agreement.

4. Neither RLC nor the Owner shall, by reason of the expiration or the termination of this Agreement in accordance with the terms and provisions hereof, be liable to the other for compensation, reimbursement or damages, either on account of present or prospective profits or on account of expenditures, investments or commitments made in connection therewith or in connection with establishment, development or maintenance of the business or goodwill of RLC or the Owner, or on account of any other cause or thing whatsoever; provided, however, that such expiration or termination shall not affect the rights or liabilities of the parties with respect to any indebtedness owing by either party to the other; and further provided, that such expiration or termination shall be subject to any then existing lease or leases of the Railway Equipment, and RLC, at its option, shall be entitled to continue, pursuant to the terms and conditions of this Agreement, the management and control of any of the Railway Equipment covered by such lease or leases as may be necessary for RLC to comply with such lease or leases, including the right to retain the Lease Fees, Management Fee and other sums as provided for herein, until the expiration or termination of such lease or leases. Except as may be otherwise expressly set forth herein, upon the expiration or termination of this Agreement, all obligations of the parties shall immediately cease. RLC shall, however, provide reasonable assistance to Owner in transferring to Owner, all at Owner's expense and upon Owner's request, all records, data and other information relating to the Railway Equipment and in assisting Owner in the implementation of such records, data and information into Owner's operations.

## **ARTICLE V**

### **Management Fee**

In consideration of the services of RLC hereunder, Owner shall pay to RLC a management fee of 16% of the Lease Fees collected for each railway car included in the Railway Equipment (the "Management Fee"). The Management Fee shall be deducted from the remittance due quarterly to Owner as otherwise provided herein.

## **ARTICLE VI**

### **Legal Actions**

RLC will give written notice to Owner at least 10 days prior to the institution of legal proceedings by RLC or not more than 10 days after being served with process in any legal proceedings against RLC involving the Railway Equipment. Unless otherwise directed in writing by Owner, RLC may, at its option, institute or defend, in its own name or in the name of Owner, or both, but not against each other, and in all events at the expense of the Owner, any and all legal actions or proceedings it considers necessary hereunder, including those to collect charges, rents, claims or other income for the Railway Equipment, or lawfully oust or dispossess lessees or other persons in possession thereof, or lawfully cancel, modify or terminate any lease, license or concession agreement for the

breach thereof or default by a lessee, licensee or concessionaire or take any and all necessary actions to protest or litigate to a final decision in any appropriate Court or other forum any violation, order, rule, regulation, suit, claim or other matter affecting the Railway Equipment. RLC shall keep Owner currently advised of all legal proceedings and Owner reserves the right to direct RLC to terminate any litigation brought pursuant to the foregoing authority.

## **ARTICLE VII**

### **Assignment**

This Agreement is not assignable by either party except with the written consent of the other party; provided, however, (a) this Agreement together with the Railway Equipment may be transferred by Owner to his estate, heirs or devisees or to any purchaser at a foreclosure sale where this Agreement and the related Railway Equipment are sold as collateral so long as such sale complies with applicable federal or state securities laws and (b) may be assigned by RLC in connection with the merger or consolidation of RLC into another corporation or as part of the sale of substantially all of the assets of RLC, provided that notice of such merger, consolidation, or sale shall be given to Owner prior to the effective date thereof.

## **ARTICLE VIII**

### **Indemnification**

Owner and RLC jointly and severally acknowledge, agree and covenant that RLC is entering into this contract as an independent contractor, and neither party hereto shall take any action to alter such legal relationship. Owner shall have no right or authority, and shall not attempt, to enter into contracts or commitments in the name, or on behalf, of RLC, or to bind RLC in any manner or respect whatsoever. Further, Owner agrees to indemnify and hold RLC harmless from any and all claims, demands, causes of action (at law or equity), costs, damages, reasonable attorney's fees, expenses and judgments, except those arising out of RLC's gross negligence or willful misconduct, which may hereafter be made or caused by any third party based on or relating to the Railway Equipment or the operation, including the leasing, thereof. RLC agrees to indemnify and hold harmless Owner from and against any and all claims, demands, causes of action (at law or equity), costs, damages, reasonable attorney's fees, expenses and judgments which may hereafter be made or caused by any third party based on actions taken by RLC in connection with the Railway Equipment, which actions were not authorized hereunder, were authorized hereunder but performed negligently, or were not specifically requested or approved by Owner.

## **ARTICLE IX**

### **Additional Agreements**

1. Each party hereto shall promptly and duly execute and deliver to the other party such further documents, assurances, releases and other instruments, and take such further actions, including any necessary filings and the execution of a power of attorney of Owner, as the other party may reasonably request, in order to more fully carry out the intent and purpose of this Agreement and to indicate the ownership of the Railway Equipment during the continuance and upon termination of this Agreement.

2. It is understood that upon the expiration or termination of this Agreement as to any or all of the Railway Equipment, Owner shall no longer be entitled to use the Recording and UMLER Car Initials and Numbers and other designations (the "Designations") that are presently the property of RLC. Accordingly, Owner agrees that it will promptly undertake upon such expiration or termination, at Owner's expense, all steps necessary to promptly change the Designations on the Railway Equipment no longer included under the Agreement and to execute any and all documents requested by RLC to transfer to RLC any rights Owner may have acquired to such Designations. RLC agrees to prepare, at RLC's expense, documentation as, in its opinion, is necessary to change all designations on the Railway



Equipment from the Designations of RLC to those adopted by Owner, and to provide reasonable assistance to Owner, at Owner's expense, in the filing of such documents.

3. Any notice or other communication by either party to the other shall be in writing, and shall be deemed to have been duly given if either delivered personally or mailed, postage prepaid, registered or certified mail, addressed as follows:

RLC: Richmond Leasing Company  
777 South Post Oak Road  
Houston, Texas 77056  
Attention: President

Owner: Ritter & Cook .....  
Post Office Box 1148 .....  
Austin, Texas 78767 .....

or to such other address, and to the attention of such other person or officer as either party may designate to the other in writing as provided by this Paragraph.

4. The Owner or his authorized representative shall be entitled to inspect the books and records of RLC applicable to the Railway Equipment at any reasonable time during the office hours of RLC.

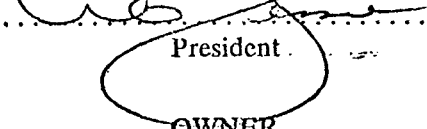
5. This Agreement contains the entire agreement of the parties hereto pertaining to the management and operation of the Railway Equipment. Except as otherwise provided herein, this Agreement may not be modified or amended, except by express, written agreement signed by both parties hereto. Any waiver of any obligation of either party hereto shall not be construed as a continuing waiver of any such obligation under any provision hereof.

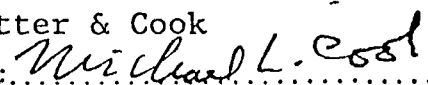
6. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the heirs, administrators, executors, successors and assigns, if any, of the parties hereto, subject to the provisions pertaining to the assignment hereof set forth in Article VII.

7. This Agreement shall be construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have hereunto set their names, effective this 22<sup>nd</sup> day of June, 1977.

RICHMOND LEASING COMPANY

By  .....  
President  
OWNER

Ritter & Cook  
By:  .....  
Michael L. Cook